

# SUMMARY GUIDE: LONGMONT'S ORDINANCE ON INCLUSIONARY HOUSING

## SUMMARY

12% of all residential homes must be affordable (defined as homes sold at a price that is affordable to households at or below 80% of the Area Median Income or renting homes at rents that are affordable to households at or below 60% of the Area Median Income). Sales and rent prices are set by the City and are made available, along with the methodology, on the city's website.

For-sale market homes developments can use any of the below options to satisfy their requirement; rental homes developments can only use the Fee-in- Lieu or Land Donation option or can enter into a Voluntary AH Agreement.

Affordable Homes (both for-sale and rental) must be deed restricted as permanently affordable in a form provided by the City.

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## HOW TO SATISFY THE REQUIREMENTS

### On-Site Location (E.1.)

Provide the affordable homes (AH) homes on-site based on 12% of total number of market homes being provided. AH homes can be provided in a different product type than the market homes (e.g., market = single family detached; AH = townhomes, condos, rentals) as long as the total number of AH homes meets the number of homes required.

The phasing of the construction of AH homes will be outlined in an Affordable Housing Agreement between the city and the developer/builder and under the same standards and procedures as a public improvement agreement.

Affordable homes will have equal access to all amenities within the development and homeowner associations will keep affordable homes on a fair and equal footing with market rate homes within the governing documents.

*Council approval is not needed when providing for-sale AH homes On-Site.*

*Council approval is required if a rental project voluntary chooses to provide affordable homes on-site (see: Voluntary Alternative Agreement)*

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### Fee in Lieu (E.2.)

FIL is calculated based on the total finished livable square footage of the market rate homes in the development and will be updated, via the Council-accepted methodology, and approved by Council every three years.

The initial for-sale FIL amount is set at \$7.90/SF. The initial rental FIL is set at \$1.90/SF. The 12% affordable requirement has been applied to reach the \$7.90 and \$1.90 figures, which will be applied to the total square footage of livable finished square footage.

The FIL may be paid at any time up to the release of C.O. for each market rate home. The FIL to be paid will be the cost in effect at the time of Final Plat or Site Plan approval, whichever is later.

*Council approval is not needed when paying the FIL for for-sale or rental projects.*

### Off-Site Location (E.3.)

The AH homes may be provided in a different location than the market rate homes and must equal the same number of affordable homes required to be provided as if on-site.

AH homes cannot be located in designated low/moderate income areas of the city without prior Council approval granting an exception (K.3).

AH homes provided in an off-site location can be new construction or can be existing housing that is purchased, deed restricted, and sold at the affordable sales prices.

Existing homes must be in good repair based on an inspection commissioned by the city, but paid by the developer; carry a warranty from the date of deed restriction; and cannot already be deed restricted as affordable.

Approval to build homes off-site does not guarantee Planning and Development Services approval for the Off-Site location. The developer must complete the standard development review process through the city.

Phasing of the construction of AH homes offsite will be outlined in the Affordable Housing Agreement between the city and the developer/builder under the same standards and procedures as a public improvement agreement.

No Double Counting - Off-Site AH homes will not satisfy obligations for any market rate housing on the off-site location. Additional AH homes will be necessitated by those market homes.

*This option must be approved by Council prior to approval of the Final Plat or Site Plan for the original development.*

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### Land Dedication (E.4.)

Land may be donated to the city in place of providing the AH homes and must:

- Be approved by Council prior to the approval of the Final Plat or Site Plan;
- Be fully buildable land or lots, i.e. have all off-site infrastructure to the site, OR agree to build the infrastructure, OR provide sufficient funding to the City to pay for the infrastructure AND have all obligations to neighboring landowners paid;
- Be able to support at least the quantity of AH required without the need for variances or reliance on incentives from the city;
- Not be encumbered in any way (liens, taxes or fees accrued, floodplain that limits development, etc.);

- Be zoned appropriately to provide the AH homes;
- Not be in a Low/Moderate Income designated area (unless prior Council approval is received);
- Be dedicated to the city at time of execution of the final Plat/Site Plan;
- Be compliant with all environmental site assessment code provisions;
- Be in fee simple title and transferred by general warranty deed.

*This option must be approved by Council prior to approval of the Final Plat or Site Plan for the original development.*

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**Combinations of the above are allowed and developers may propose an alternative manner to meet the AH requirements not outlined in the ordinance. Proposals must be approved by Council prior to the approval of the market rate Final Plat or Site Plan. (E.6. and E.7.)**

Developers can provide an alternative manner in which to meet these requirements. This includes developers of rental housing who voluntarily agree to designate or otherwise provide affordable rental homes rather than pay the FIL or dedicate land. (E.6.)

## EXCEPTIONS

### Affordable Housing for Lower Income Households

When providing housing at the following lower AMI levels, a reduction is allowed in the amount of AH homes that must be provided. (E.6.a-d)

Product Type	Requirement	Alternative
For Sale	≤ 80% AMI = 12%	≤ 60% AMI = 9%
Rental	≤ 60% AMI = 12%	≤ 40% AMI = 9%

### Middle-Tier Housing

When a development provides some or all of its homes as middle-tier housing, the obligation shall be reduced on a per unit basis when sales prices meet the following: (F.1 – 3)

Tier Level	Reduction to 12% Requirement
A=80.1%-100% AMI	100% (no added requirement)
B=100.1%-110% AMI	60% (40% requirement owed)
C=110.1%-120% AMI	20% (80% requirement owed)

Sales prices are set by the city and updated annually. No deed restrictions are required on the Middle-Tier homes; however, developer must use best efforts to ensure the initial buyers intend to use the home as their primary residence and provide documentation via sales contracts, loan docs, etc. (F.5.)

Developers will provide to the city, prior to each building permit, which middle-tier price range the home is intended to meet. To receive a C.O. for each unit and for reconciliation at the final C.O., the developer will provide proof that the home sold within the range via final closing documents, etc.

If a home in a designated tier ends up selling for more than allowed for that tier, there will be a reconciliation and the additional FIL amount owed to the city can be made without Council approval.

### Individual-Owned Lots and ADUs

An individual who owns a lot that was platted prior to the implementation of the Ordinance and will construct a home that will be his or her primary residence is exempt from this ordinance. (B)

An accessory dwelling unit (ADU) constructed by the owner of a primary residence is exempt from this ordinance.

### Low/Moderate Income (LMI) Areas.

Council may, at its sole discretion, provide an exception to allow AH homes in Off-Site or Land Dedication options to be placed in LMI Areas, generally considering if the AH would result in clustering that would negatively impact the area, the surrounding community, or the city as a whole, and whether positive elements of the redevelopment or investment in the area would outweigh any negative impacts (K.3.)

### Live/Work Units

Live/work units are considered residential development, but only 80% of the SF of each structure will be considered residential for calculating the AH requirement. (D.3.)

### High Density Rental Projects

Rental projects with more than 20 homes per acre will receive an exemption on the number of homes provided above the 20 units/AC. The FIL or number of AH homes to be provided will only be calculated on the homes up to 20 per acre. (E.2.c.)

## GENERAL INFORMATION

**Income Qualification.** The city will income qualify households eligible to purchase affordable homes under the program and will work with property managers/agents on how to income qualify tenants for affordable rental properties (if providing homes under a voluntary agreement). The Program's Policies and Procedures will outline this process and will provide for a local live/work preference when there is competition for a home. (H.)

**Affordable Housing Agreement.** Each development will enter into an Affordable Housing Agreement with the city laying out how the AH requirements will be met.

**Credits. (L.)** The city will provide and track credits for developments that offer to and provide more than the minimum number of AH homes.

No federal, state, local agency or city assistance, financial subsidy, tax relief or other credit can be used to support the extra affordable homes.

The land for the affordable homes may not have been provided under a Longmont AH program.

Land use incentives and/or HUD loans can be used to support/produce the extra homes.

Credits can be used to offset AH homes required in another development. The development generating the credit may negotiate with a future project to transfer/sell the credits to another development. Developments are required to provide documentation of the transfer/sale of credits to the city. Credits will expire after five years, with one two-year extension allowed.

**Period of Applicability.** Requirements apply to any development receiving approval of a final plat, site plan, PUD plan, overall development plans, or other similar planning approval after the enactment of this Ordinance. (C.)

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## FOR-SALE/HOMEOWNER REQUIREMENTS

**Marketing of AH Homes.** The Program Rules and Regulations will address the marketing requirements of a development providing AH homes to ensure that the community is aware of affordable housing opportunities. (M.)

**Deed Restrictions.** Deed restrictions will be secured by a Deed of Trust and a covenant on each property. The covenant will allow a sale to another income-qualifying affordable buyer at the sales price determined by the city. Sales prices will allow for a long-term rate of appreciation, plus allowance for some capital improvements installed by the homeowner.

The rate of appreciation will be indexed to changes in the area median income and may be capped to ensure the long-term affordability.

All requirements will be in the Program's Policies and Procedures and city staff will explain requirements to potential buyers. The sales staff of each development is expected to fully understand the requirements and be able to inform potential buyers as well. (G.)

**Primary Residence.** For sale homes may not be rented, but must be owner-occupied as a primary residence. An exception may be granted by the city if there is a bona-fide hardship, the property doesn't carry an outstanding down payment assistance loan, and the renter will be low/moderate income. Requirements around this exception will be laid out in the Program's Policies and Procedures. (I.)

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## RENTAL REQUIREMENTS

Any deed restrictions pursuant to a voluntary agreement will be secured by a deed of trust on the property and will be put into place prior to the issuance of the first C.O. for any rental unit in the property. (G.1.b.)

The rental covenant may be released after 30 years, at the city's full discretion, considering if the owner at the time pays for each deed restricted rental unit the amount of the difference in value of the unit, with and without the deed restriction, based on reasonable market data, or if an arm's length sale, the value at which the property is priced in the sale.

More information on the mechanics of this will be laid out in the Program's Policies and Procedures. (G.5.b.)